Supreme Court, U.S.
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No. 96-738

In the Supreme Court of the United States

OCTOBER TERM, 1996

MARIO SALINAS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether a jailor's receipt of bribes from a prisoner in return for allowing conjugal visits at the jail, when that jail receives federal funds pursuant to a contract to reimburse the jail for the cost of housing federal prisoners, violates 18 U.S.C. 666(a)(1)(B).

2. Whether the RICO conspiracy statute, 18 U.S.C. 1962(c), requires proof that the defendant agreed personally to commit two predicate acts of racketeering.

3. Whether there was probable cause to support the search warrant executed at petitioner's home.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 1-47) is reported at 89 F.3d 1185.

JURISDICTION

The judgment of the court of appeals was entered on July 15, 1996. A petition for rehearing was denied on August 15, 1996. Pet. App. 48. The petition for a writ of certiorari was filed on November 12, 1996. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Southern District of Texas, petitioner

was convicted on one count of conspiracy to conduct the affairs of an enterprise through a pattern of racketeering activity (RICO conspiracy), in violation of 18 U.S.C. 1962(c), and two counts of bribery relating to a program receiving more than $10,000 in federal funds, in violation of 18 U.S.C. 666(a)(1)(B). Petitioner was sentenced to 36 months' imprisonment, to be followed by three years supervised release; he was also fined $5,000. The court of appeals affirmed.

1. At the relevant times, petitioner was the Divisional Chief for Detention of the Hidalgo County, Texas, Sheriff's Office. His co-defendant, Brigido Marmolejo, Jr., was the Sheriff of Hidalgo County, and was responsible for the operation of the Hidalgo County Jail. The Hidalgo County Jail was constructed and improved with an $850,000 federal grant issued pursuant to a grant contract executed in May 1984, under which the County agreed to house federal prisoners in the completed facility for the United States Marshals Service. See Pet. App. 4-6.

The agreement between the federal government and the County was authorized by 18 U.S.C. 4002, which establishes a federal program for providing "suitable quarters for the safekeeping, care, and subsistence" of persons held in custody under federal law. As a condition of receiving federal funds for jail construction, the County agreed that it would, from time to time, provide detention space for federal prisoners. Pet. App. 6. A secondary agreement established specific provisions for the County's housing of federal prisoners, including the compensation to be paid to the County. *Id.* at 6, 59-68. Under that agreement, it was estimated that the federal government would pay the County $915,000 annually for housing federal prisoners. *Id.* at 60.

The rules of the Hidalgo County Jail did not permit conjugal visits. Family contact visits were limited to 30 minutes and ordinarily took place in the attorney visitation room, the booking area, or the detention squad room; those visits were subject to observation by jail guards. Under jail policy, if an ordinary contact visit became too physically intimate, the jailors would, after a warning, terminate the visit. Gov't C.A. Br. 5-6.

2. Homero Beltran-Aguirre (Beltran) was a federal prisoner housed in the Hidalgo County Jail (Jail) pursuant to the County's agreement with the Federal government. Beltran was transferred to the Jail on June 7, 1991, and remained there until April 14, 1992, when he was transferred to another federal facility. Beltran returned to the Jail on November 6, 1992, and remained there until April 26, 1993. Pet. App. 2.

In late August or early September 1991, Sheriff Marmolejo and Beltran arranged for a series of bribes whereby Beltran would pay to be permitted to have conjugal visits with his wife. Beltran agreed to pay Marmolejo a fixed rate of $6,000 per month, and also $1,000 for each conjugal visit. The conjugal visits occurred two days a week during the period in which Beltran was incarcerated at the Jail. Several of the visits occurred in Sheriff Marmolejo's office; either petitioner or Marmolejo himself stood outside while they were taking place. Gov't C.A. Br. 7-8.

In January 1992, Beltran instructed his brother-in-law to purchase four pairs of men's and women's Rado watches. The watches cost Beltran approximately $8,500. Beltran gave Marmolejo and petitioner each a pair of watches. On another occasion, Beltran's brother-in-law gave petitioner a 1984 Chevrolet

Silverado pickup, valued at $3,000-$4,000. Gov't C.A. Br. 9-10.

Pursuant to a search warrant, federal agents searched petitioner's house, and seized the pair of Rado watches given to petitioner by Beltran. Before trial, the district court rejected petitioner's motion to suppress the watches, and held that the warrants were sufficiently particular and were supported by probable cause. See Pet. App. 28 n.21; Gov't C.A. Br. 18.

3. The RICO conspiracy count of the indictment, Count 2, alleged that "each defendant agreed that two or more of the acts of racketeering activity, as specified in paragraph 7 of Count One, * * * would be committed in the conduct of the affairs of the enterprise." There was no allegation that each defendant agreed personally to commit two racketeering acts. Petitioner sought a jury instruction that the jury must find that each defendant agreed personally to commit two racketeering acts. Although the government did not object to that proposed charge, the district court declined to give it, and instead instructed as follows (see Pet. App. 23-24; Gov't C.A. Br. 43):

> So what the government has to prove is that the two of these gentlemen reached an agreement with each other that they were going to run the Sheriff's Office through a pattern of racketeering acts, * * * through a system of collecting bribes from one of these prisoners in return for doing favors for him, and that each of the defendants knew that that was the idea and that each of them willfully joined in. * * * So the government, in Count Two, would have to prove to you that each

> defendant * * * knew and understood and agreed that at least two predicate acts were going to be committed and that, thereafter, each of them joined in and did something to help.

4. A divided panel of the court of appeals affirmed petitioner's convictions. Pet. App. 1-47. Judge Jolly dissented with respect to the bribery convictions. *Id.* at 37-47.

a. The court first rejected petitioner's contention that his acceptance of bribes did not fall within the reach of 18 U.S.C. 666 because the County Jail had not received "[f]ederal assistance" exceeding $10,000 in a year.[1] Petitioner contended that the federal funds received by the County Jail pursuant to its contract with the federal government to house prisoners were simply contract payments for services rendered, and not "[f]ederal assistance" within the meaning of the statute. The court noted, however, that the contract to house prisoners was "interrelated" with the federal government's grant of funds to the County for jail construction, since, "[a]s a condition to the re-

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[1] Section 666(a)(1)(B) punishes anyone who, being an agent of an organization or a state or local governmental agency,

> corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more.

18 U.S.C. 666(a)(1)(B). To be covered by the prohibition, the state or local government or agency must "receive[] in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance." 18 U.S.C. 666(b).

ceipt of this grant, Hidalgo County Jail had to guarantee that it would provide detention space for federal prisoners." Pet. App. 6-7. Accordingly, the court concluded that the grant agreement and the contract, together, constituted "[f]ederal assistance" or a "[f]ederal program" within the meaning of Section 666(b). Pet. App. 7.

The court also concluded that, even with respect to the contract payments alone, petitioner's argument that the funds for housing prisoners were not "[f]ederal assistance" must fail. The court noted that the purpose of Section 666 is to protect the integrity of federal programs for which there is a "specific statutory scheme authorizing the Federal assistance in order to promote or achieve certain policy objectives." Pet. App. 8 (quoting S. Rep. No. 225, 98th Cong., 1st Sess. 370 (1983)). Because the funds provided by the federal government in this case were intended to fulfill the government's policy of providing for the safekeeping and care of prisoners in federal custody, it was irrelevant, the court concluded, that the government received something in return for the assistance it provided to the County. Pet. App. 9.

b. The court also rejected petitioner's argument that their operation of the County Jail to allow Beltran to have conjugal visits did not involve "anything of value of $5,000 or more," as required by Section 666(a)(1)(B). The court noted, first, that under circuit precedent, Section 666(a)(1)(B) "does not require the government to prove that federal funds were directly involved in a bribery transaction, or that the federal monies funded the corrupt transaction." Pet. App. 10-11. It also noted that the term "anything of value" is "broad in scope and contains no language restricting its application to transactions involving money,

goods, or services." *Id.* at 11. The court therefore concluded that the term includes "transactions involving intangible items, such as the conjugal visits at issue in this case." *Ibid.* "Because the conduct in this case involves serious acts of bribery by agents of a local government who were carrying out their duties under a Federal program," the court stated, "this case is within the scope of conduct Congress intended to encompass within 18 U.S.C. § 666." Pet. App. 14.

The court noted that "[t]he transactions involved something of value—conjugal visits that Beltran was willing to pay for." Pet. App. 16. And, because Beltran was willing to pay more than $5,000 to obtain conjugal visits, the court also found no difficulty in concluding that the visits were worth more than $5,000. The court reached that conclusion "in the same way an appraiser would value an asset—by looking at how much a person in the market would be willing to pay for [the visits]." *Id.* at 17-18.

c. The court further rejected petitioner's contention that the trial judge erred in instructing the jury on the RICO conspiracy count. Pet. App. 21-26. The court noted that previous Fifth Circuit cases had not definitively resolved whether "each RICO conspirator must agree to commit personally two or more racketeering acts or whether it is sufficient that the conspirator simply agrees that one of his co-conspirators will commit two or more racketeering acts." *Id.* at 22. After examining prior case law of the Fifth Circuit and other circuits, the court "join[ed] the majority view among the circuits in holding that to be guilty of RICO conspiracy, the conspirator must simply agree 'to the objective of a violation of RICO; he need not agree personally to violate the statute'" sub-

stantively by personally committing a pattern of racketeering activity. *Id.* at 24. It reasoned that nothing in the language of the RICO conspiracy provision, 18 U.S.C. 1962(d), "indicates that Congress intended to do anything more than to criminalize a conspiratorial objective—the violation of a substantive RICO provision." Pet. App. 24. To accept petitioner's argument that RICO conspiracy contains a special personal-participation element "would be a marked departure from traditional conspiracy law for which there is no support in the language of the statute or the statutory history." *Id.* at 25.

d. Finally, the court rejected petitioner's argument that the Rado watches seized from his house should be suppressed because probable cause to carry out the search was lacking. The court found that it need not reach the question of probable cause, because the searching officers had relied in good faith on a facially valid search warrant supported by a detailed affidavit containing first-hand observations by the affiant. Pet. App. 29. The court therefore ruled that the good-faith exception to the exclusionary rule applied to the evidence seized during the search of petitioner's house. *Id.* at 31.

ARGUMENT

1. Petitioner contends (Pet. 4-5) that the court of appeals' conclusion that the Hidalgo County Jail is, within the meaning of 18 U.S.C. 666(b), an "organization" that "receives" "benefits" under a "federal program" involving a "grant" or "contract" conflicts with *Logue* v. *United States*, 412 U.S. 521 (1973). That contention is without merit. The question in *Logue* was whether the Federal Tort Claims Act (FTCA), 28 U.S.C. 1346(b)—which imposes liability

on the United States for negligence by "any employee of the Government" (including "employees of any federal agency")—makes the United States liable for negligence by federal contractors, in that case the employees of a county jail that housed federal prisoners under a contract with the federal government. The Court concluded that the jail employees were not employees of "the Government" or of a "federal agency" within the meaning of the FTCA, even though the jail was housing federal prisoners under a contract with a federal agency. 412 U.S. at 526-532. The federal bribery statute at issue here does not require that the jail be a "federal agency," but rather that it be an "organization" that "receives" "benefits" under a "federal program" involving a "grant" or "contract." Thus, the bribery statute, unlike the FTCA, expressly encompasses actions by employees of federal contractors.

2. Petitioner also argues (Pet. 6-7) that the court of appeals' decision on the bribery counts conflicts with decisions of the Third Circuit, in *United States* v. *Cicco*, 938 F.2d 441 (1991), and of the Second Circuit, in *United States* v. *Foley*, 73 F.3d 484 (1996). That contention is incorrect.[2]

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[2] Petitioner also relies (Pet. 5) on the decision of the district court in *United States* v. *Stewart*, 727 F. Supp. 1068 (N.D. Tex. 1989). In that case, the district court concluded that the defendants could not be charged under Section 666 for stealing property valued at more than $5,000 from a company that sold more than $10,000 per year in machinery to the federal government. The court concluded that the funds paid by the federal government to the company in exchange for the tools were part of an ordinary commercial exchange, and were therefore not "benefits" within the meaning of Section 666. Whether or not *Stewart* was correctly decided, it has been

In *Cicco*, the defendants, officials of a New Jersey town, were charged under Section 666 with soliciting election-related political services from office seekers, intending to be influenced in the distribution of municipal jobs. The theory of the case was that the defendants had demanded political services, allegedly a "[]thing of value" within the meaning of Section 666(a)(1)(B), as a *quid pro quo* for providing jobs that were worth more than $5,000 per year. The difficulty that the court perceived with the government's theory was the allegation that the election-related services were a thing of value, within the statutory meaning. The court acknowledged that "specific election day services with municipal employment as the quid pro quo[] might come within the literal language of § 666," 938 F.2d at 444, but it concluded that if the statute were read broadly enough to encompass exchanges of political jobs for political favors, without any transfer of cash, the statute would be uncertain in application: "If solicitation of what the government characterizes as 'party loyalty' is covered, for example, those boundaries become vague indeed." *Ibid.*

There is no similar difficulty in this case. This case involves a simple exchange of cash by a prisoner for favorable treatment by officers of a jail receiving federal funds. Because of the straightforward nature of such a transaction, there is no difficulty in determining whether that favorable treatment is a "[]thing of value" within the meaning of Section 666(a)(1)(B).

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superseded by the decision below of the court of appeals for that circuit. Moreover, as the court of appeals explained (Pet. App. 6-7), the funds received by the County Jail in this case did not involve just funds for services rendered, for the federal government also gave the County grant assistance for the construction of the Jail.

And, in offering Beltran favorable treatment, petitioner was using facilities of the county jail that were paid for in large part by federal funds. Thus, unlike the *Cicco* case, this case does implicate "the integrity of the vast sums of money distributed through Federal programs from * * * undue influence by bribery." 938 F.2d at 444 (quoting S. Rep. No. 225, *supra*, at 370).

In *Foley*, the court of appeals reversed the conviction of a state legislator who had been charged with accepting bribes from real estate developers in exchange for influencing the passage of legislation favorable to those developers. The court concluded that the convictions could not stand because, in its view, Section 666 was enacted to safeguard the integrity of federal funds, and the legislation that resulted from the bribe "affected neither the financial interests of the [State] nor * * * federal funds directly." 73 F.3d at 492.

We believe that the decision in *Foley* is incorrect, but we also believe that it does not conflict with the decision in this case. The court in *Foley* emphasized that the legislation passed in that case "had [no] connection whatever with a federal program" for which the State was receiving federal funds. 73 F.3d at 492. This case is markedly different, for here the bribe was offered and taken in return for favorable treatment in the operation of a jail housing a federal prisoner, precisely the federal program for which the county had received federal funds. Thus, even though the bribe did not cause the operators of the jail to be influenced in the disbursement of money, it did cause them to be influenced in the administration of the very program for which they had received federal

funds. The bribes therefore directly affected the integrity of a federally funded program.[3]

3. a. Petitioner argues (Pet. 7-12) that the trial court should have instructed the jury, on the RICO conspiracy charge, that it was necessary for the government to prove that petitioner agreed personally to

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[3] In *United States* v. *Rooney*, 37 F.3d 847 (2d Cir. 1994), relied on by the court of appeals in *Foley* (see 73 F.3d at 491), the court concluded that a real estate developer, who had obtained construction loans from a federal agency, did not violate Section 666 when he requested that the general contractor perform additional work in return for his agreement to seek additional financing from the government. The court noted that "the charge against Rooney is unrelated to any dispensing of government largesse," 37 F.3d at 850, a point that distinguishes *Rooney* from this case, in which Beltran's bribes were offered for favorable treatment by his jailers. In addition, the court concluded that Rooney's offer was not "corrupt," as required by the statute, because it did not involve a breach of some duty owed to the government or the public at large. *Id.* at 852. The same cannot be said of this case, in which petitioner unquestionably allowed Beltran's bribes to influence improperly the performance of his public functions. "It is an obvious violation of duty and public trust for a public official * * * to accept or demand a personal benefit intending to be improperly influenced in one's official duties." *Ibid.*

United States v. *Wyncoop*, 11 F.3d 119 (9th Cir. 1993), cited by petitioner (Pet. 7), is also inapposite. In that case, the defendant was charged with embezzling money from a college, which received no federal funds directly but admitted students who received federally guaranteed student loans. The court concluded that the indirect benefit to the college from increased enrollment of students receiving federally guaranteed private loans was not a "benefit[] in excess of $10,000 under a Federal program" within the meaning of Section 666(b). 11 F.3d at 121. In this case, by contrast, the County received funds directly from the federal government for the construction and operation of the Jail.

commit at least two racketeering acts. He contends that it erred in charging that the government needed only to show that petitioner agreed to participate in an undertaking that, as a whole, would involve at least two racketeering acts (whether committed by petitioner or one of his co-conspirators). The court of appeals correctly rejected that challenge. Pet. App. 21-26.

The RICO conspiracy provision, 18 U.S.C. 1962(d), states that "[i]t shall be unlawful for any person to conspire to violate any of the [substantive RICO provisions]." 18 U.S.C. 1962(d). As the court of appeals observed (Pet. App. 25), traditional conspiracy doctrine provides that the conspirators need only agree and intend that a substantive provision be violated, not that each conspirator commit the violation. See *United States* v. *Neapolitan*, 791 F.2d 489, 497-498 (7th Cir.), cert. denied, 479 U.S. 939 (1986). Nothing in the language of the RICO statute or its legislative history suggests that Congress intended to depart from that longstanding doctrine, or to add any special element of proof that was not required by application of general conspiracy principles. A RICO conspiracy offense therefore occurs if there is an agreement among the conspirators to conduct the affairs of an enterprise through a pattern of racketeering activity, which includes the agreement that the conspirators, as a group, will commit two or more racketeering acts constituting such a pattern. There does not need to be an agreement that each and every conspirator will commit two or more crimes comprising a pattern of racketeering activity.

Petitioner correctly notes that there is a conflict among the courts of appeals on that point, but the majority view (shared by the Fifth Circuit in this

case) is plainly correct, and there is no need for this Court to resolve the issue. A large majority of the courts of appeals have rejected the argument advanced by petitioner. See, *e.g.*, *United States* v. *Pungitore*, 910 F.2d 1084, 1130 (3d Cir. 1990), cert. denied, 500 U.S. 915 (1991); *United States* v. *Pryba*, 900 F.2d 748, 759-760 (4th Cir. 1989), cert. denied, 498 U.S. 924 (1990); *United States* v. *Hughes*, 895 F.2d 1135, 1141 (6th Cir. 1990); *United States* v. *Quintanilla*, 2 F.3d 1469, 1484 (7th Cir. 1993); *United States* v. *Leisure*, 844 F.2d 1347, 1367 (8th Cir.), cert. denied, 488 U.S. 932 (1988); *United States* v. *Blinder*, 10 F.3d 1468, 1477 (9th Cir. 1993); *United States* v. *Starrett*, 55 F.3d 1525, 1544 (11th Cir. 1995), cert. denied, 116 S. Ct. 1335 (1996). Only two circuits have accepted petitioner's argument. See *United States* v. *Winter*, 663 F.2d 1120, 1136-1138 (1st Cir. 1981), cert. denied, 460 U.S. 1011 (1983); *United States* v. *Ruggiero*, 726 F.2d 913, 921 (2d Cir.), cert. denied, 469 U.S. 831 (1984). The Tenth Circuit has tentatively applied the minority view while expressly preserving the question for reconsideration by another panel. See *United States* v. *Sanders*, 929 F.2d 1466, 1473, cert. denied, 502 U.S. 846 (1991).

The conflict in the circuits on this issue has existed for many years, and there is no need for this Court's intervention at this time. Now that the Fifth Circuit has joined the majority, the minority circuits may reexamine their position in the future. Furthermore, this Court has in the past denied several certiorari petitions presenting this issue, see *Alex* v. *United States*, 115 S. Ct. 2245 (1985); *Pryba* v. *United States*, 498 U.S. 924 (1990); *Adams* v. *United States*, 474 U.S. 971 (1985), and there is no basis for a different result now.

b. Petitioner also argues (Pet. 10-12) that the Fifth Circuit's decision in this case was a reversal of prior Fifth Circuit precedent, and that such a change in the law deprived him of due process. That due process argument was not presented to the court of appeals, and in any event it has no merit. Before this case, the Fifth Circuit had never decided whether a jury instruction such as was given in this case was proper. Although dicta in some Fifth Circuit cases had discussed the issue, none of those earlier cases actually held, as petitioner claims, that each RICO conspirator must agree to commit personally two of the racketeering acts.[4] And in view of the cases in

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[4] See *United States* v. *Marcello*, 876 F.2d 1147, 1152-1153 (5th Cir. 1989) ("RICO conspiracy conviction requires proof that the defendants conspired to engage in a pattern of racketeering activity."); *United States* v. *Phillips*, 664 F.2d 971, 1012 (5th Cir. 1981) ("Proof of a RICO conspiracy charge requires that the Government prove the additional element of agreement. The defendant must have objectively manifested an agreement to participate directly or indirectly, in the affairs of an enterprise through the commission of two or more predicate crimes.") (emphasis added) (internal quotation marks omitted), cert. denied, 457 U.S. 1136 (1982); *United States* v. *Sutherland*, 656 F.2d 1181, 1203 (5th Cir. 1981) ("The defendants contend that the court should have instructed the jury that *each* defendant must have committed at least two predicate crimes in furtherance of the conspiracy. This argument confuses conspiracy to commit a RICO offense with the substantive RICO offense itself. The substantive crime does require each defendant to have committed at least two predicate acts of racketeering activity, but a *conspiracy* charge is based instead on an agreement to do so; to prove such an agreement, the government need only demonstrate some overt act, by any defendant, in furtherance of the agreement.") (internal quotation marks omitted), cert. denied, 455 U.S. 949 (1982); *United States* v. *Elliot*, 571 F.2d 880, 902-903 (5th Cir.

other circuits holding that no such instruction is required, petitioner could have had no reasonable reliance interest in the law of any one circuit, even if it were favorable to him. See *United States* v. *Rodgers*, 466 U.S. 475, 484 (1984). Thus, there is no merit to petitioner's argument that the court of appeals unconstitutionally applied a new standard of criminal liability to his case.

5. Finally, petitioner argues (Pet. 12-13) that because two search warrants were issued to find the Rado watches, one for his home and one for his office, neither was supported by probable cause to believe that the watches could be found in that place. The court of appeals correctly held, however, that because the officers in good faith relied on the facially valid search warrant to search petitioner's home, there was no need to reach the question whether the war-

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1978) ("[T]he object of a RICO conspiracy is to violate a substantive RICO provision—here, to conduct or participate in the affairs of an enterprise through a pattern of racketeering activity—and not merely to commit each of the predicate crimes necessary to demonstrate a pattern of racketeering activity. The gravamen of the conspiracy charge in this case is not that each defendant agreed to commit arson, to steal goods from interstate commerce, to obstruct justice, and to sell narcotics; rather, it is that each agreed to participate, directly and indirectly, in the affairs of the enterprise by committing two or more predicate crimes. Under the statute, it is irrelevant that each defendant participated in the enterprise's affairs through different, even unrelated crimes, so long as we may reasonably infer that each crime was intended to further the enterprise's affairs. To find a single conspiracy, we still must look for agreement on an overall objective.") (footnote omitted), cert. denied, 439 U.S. 953 (1978).

rant was supported by probable cause.[5] See *United States* v. *Leon*, 468 U.S. 897 (1984). In any event, petitioner's contention that the warrant was not supported by probable cause is factbound and raises no issue of general importance warranting this Court's review.

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[5] The court of appeals followed its precedent to the effect that "when a warrant application is supported by more than a 'bare bones affidavit' containing wholly conclusionary statements, it is appropriate for officers to rely on the warrant's validity." *United States* v. *Pigrum*, 922 F.2d 249, 252 (5th Cir.), cert. denied, 500 U.S. 936 (1991). The affidavit in this case was far from "bare bones." See Pet. App. 86-106. The affiant, IRS Special Agent John A. Trevino, stated that he had participated personally in the investigation of prisoner Beltran and Sheriff Marmolejo. The affiant relied on information received from two (then) confidential informants, Beltran and his brother-in-law. The affidavit recited in detail the course of the bribery, specifically including the transfer of sets of watches to the Sheriff and petitioner. It was a reasonable inference that the set of watches given to petitioner might be found where he spent time and kept his personal possessions, his office and his home. Indeed, it was a reasonable possibility that the man's watch might be in his office and the woman's watch at his residence. Under the circumstances, the affidavit was sufficient to satisfy the probable cause and particularity requirements.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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